

II. Remarks

The Examiner is requested to reconsider the application. It is believed that no new matter has been added by the amendment.

In the Office Action, mailed October 18, 2007, claims 1-4 have been rejected under 35 U.S.C. 102(e). The Examiner contends that the requirements of these claims are anticipated by Hughes (US 2003/0192029). The contention is more particularly set out in the Office Action, but generally relies on Hughes' paragraphs 140-153, which refer to Hughes' Figs. 13-16.

Generally, Hughes is directed to "computer-based methods and systems for developing and distributing software and, more particularly, to methods and systems facilitating the distributed development of software" (paragraph 2). Further, Hughes mentions "another aspect of the invention relates to compensating developers for the design or development of software programs" (paragraph 9). This further aspect of the invention corresponds to Figs. 13-16 and the associated paragraphs 140-153 cited by the Examiner (see paragraphs 28-31 describing Figs. 13-16).

In contrast, the claims at issue are directed to determining participation in a pool... to handle a financial liability. Therefore, Hughes not only does not anticipate any of the claim elements, Hughes is also unrelated art.

More particularly, Hughes does not teach the following element of claim 1: forming a pool to handle a financial liability over a period of time. The paragraphs and Figures of Hughes cited by the Examiner pertain to a method of compensating software developers (paragraphs 28-31 and Figs. 13-16) and, in particular, a royalty-based compensation method (paragraphs 140-153 and Figs. 13-16) that allocates *moneys received from revenues* to software developers based on the developer's contribution to the development of the software.

In contrast, in claim 1 herein, a financial liability is an obligation, that may be contingent, to pay money out. The fundamental difference between money in (Hughes) and money out

makes Hughes' teaching fundamentally different from the present invention.

If the money is flowing in, the participants in the process are receiving money. Because the participants are receiving money, there is no need in the process to be concerned about rules for member participation, which is unlike the situation where the members are at risk to pay money out.

There is further reason why Hughes does not anticipate claim 1. Hughes fails to teach Applicant's claimed storing, in a computer system, rules for member participation in the pool. The royalty pool of Hughes does not have any members. The Hughes royalty pool contains only dollars (Figs. 14 and 15).

For perspective in Hughes, the dollars in the royalty pool are allocated according to the contribution of the development team member. Contribution may be measured in a number of ways. "In one embodiment, the contribution 1308 is a predetermined amount that is specified in advance of the development work. In another embodiment, the contribution 1308 of each member is determined by the amount of time, level of skill (determined by previous scores, contest rating, experience or a combination), or degree of effort made by the development team member. In another embodiment, the contribution 1308 is measured is determined by the usefulness of the team member's contribution" (paragraph 141). Further, because Hughes does not teach forming the pool according to Applicant's claim 1, there is no disclosure in Hughes of Applicant's claimed storing with respect to the pool that is formed.

There is yet further reason why Hughes does not anticipate Applicant's claims: Hughes does not disclose Applicant's claimed applying the rules, with the computer system, to carry out the step of determining the participation within the period of time.

Because the rules, determining, and the member participation are not disclosed in Hughes, (e.g., Hughes has dollars rather than members) Hughes is not the same as what is set out in Applicant's claim 1.

Of course if Hughes does not anticipate claim 1, it does not anticipate the claims dependent thereon. For this reason, and because the other elements set out in claims 2-4 are not the same as Hughes, Applicant's claims are not anticipated by Hughes.

The new claims incorporate limitations similar to those of claim 1 and are not anticipated by Hughes for the same reasons. The apparatus claims have not been added in response to the Office Action, but rather in response to the Federal Circuit's Paymentech decision (2006-1503).

In conclusion, the rejection is respectfully traversed for each and every reason set forth above.

The application is believed to be in condition for allowance, and favorable action is requested. If the prosecution of this case can be in any way advanced by a telephone discussion, the Examiner is requested to call the undersigned at (312) 240-0824.

The Commissioner is hereby authorized to charge any fees associated with the above-identified patent application or credit any overcharges to Deposit Account No. 50-0235, and if any extension of time is needed, this shall be deemed a petition therefor. Please direct all communication to the undersigned at the address given below.

Respectfully submitted,



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